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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,055	10/25/2001	Daniel J. Zigmond	14531.82.1.1	4315

7590 12/17/2004

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EXAMINER	
TRAN, HAI V	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/029,055	ZIGMOND ET AL.	
	Examiner	Art Unit	
	Hai Tran	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *02/20/2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim1 is objected to because of the following informalities: line 11, "e. ***The method of claim 1***, wherein the first communication is a..." is a step within claim 1, but not a claim dependency. The usage of "The method of claim 1..." in step (e) needs to be edited accordingly to the meaning/context of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Throckmorton et al (US 5,818,441) in view of Chang et al. (US.6,035,324) and further in view of Thompson et al. (US 5.961,602).

Regarding claim 1, Throckmorton shows a receiver unit (Fig.2, element 34) receives a first communication (fig.3, element 50; Col.6, lines 28-35) including an indication of destination network (associated data signal; Col.7, lines 38-45) on a packet-switched (Fig.4, Col. 8, lines 19-25). Throckmorton further discloses the first communication is a broadcast trigger (Col.7, lines 21-23) which is received by the receiver unit from one-way broadcast communication channel (Col.7, lines 13-15)..

Throckmorton does not specifically show the first communication includes scheduling information, and the receiver prepares a second communication to be sent to the destination and store the second communication on the receiver unit itself then the receiver waits a period of time determined by the scheduling information and then automatically the receiver sends the second communication over the packet-switched network.

Chang et al. shows a second communication stores at the receiver and automatically sends to the destination when a connection becomes available (Col.12, lines 15-25).

Thompson et al shows the scheduling information is a software application program delivered from the Internet (Col.7, lines 55-60), stored at the receiver and run at the processor of the receiver to control the dial-up or connection with the Internet automatically at predetermined time.

Therefore, it would have been obvious to one of the ordinary skill in the art to modify Throckmorton by combining the teaching of Chang and Thompson in order to allow to user to modify the stored information by recalling it from the memory before the stored information could be transmitted (see Chang, Col.12, lines 8-12) and also to avoid traffic congestion at the web server sites as suggested by Thompson (see Abstract).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 2-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17, and 21 of U.S. Patent No. 6,330,719. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 2 is broader than US patent claim 1. Therefore, it would have been obvious to modify patent claim 1 with less features in order to obtain application claim 2.

Allowance of claim 2 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claim 1.

Claim 3 corresponds to patent claim 2.

Claim 4 corresponds to patent claim 3.

Claim 5 corresponds to patent claim 1 with additional limitation "wherein the receiver unit is automatically establishes a connection to the network and sends the request to the destination without human input. Therefore, it would have been obvious to modify patent claim 1 with the added limitation so the user don't have to wait for the process.

Claim 6 corresponds to patent claim 4.

Claim 7 corresponds to patent claim 5.

Claim 8 corresponds to patent claim 6.

Claim 9 corresponds to patent claim 7.

Claim 10 corresponds to patent claim 8.

Claim 11 corresponds to patent claim 9.

Claim 12 corresponds to patent claim 10.

Claim 13 corresponds to patent claims 6-7.

Claim 14 corresponds to patent claim 11.

Claim 15 corresponds to patent claim 12.

Claim 16 corresponds to patent claim 13.

Claim 17 corresponds to patent claim 20.

Claim 18 corresponds to patent claim 14.

Claim 19 corresponds to patent claim 15.

Claim 20 corresponds to patent claim 16.

Claim 21 corresponds to patent claim 17.

Claim 22 corresponds to patent claim 21.

3. Claims 23-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-25 of U.S. Patent No. 6,330,719. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 23 is broader than US patent claim 22. Therefore, it would have been obvious to modify patent claim 22 with less features in order to obtain application claim 23.

Allowance of claim 23 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claim 22.

Claim 24 corresponds to patent claim 23.

Claim 25 corresponds to patent claim 24.

Claim 26 corresponds to patent claim 25.

4. Claims 27-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 26-30 of U.S. Patent No. 6,330,719. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 27 is broader than US patent claim 26. Therefore, it would have been obvious to modify patent claim 26 with less features in order to obtain application claim 27.

Allowance of claim 27 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claim 26.

Claim 28 corresponds to patent claim 27.

Claim 29 corresponds to patent claim 28.

Claim 30 corresponds to patent claim 29.

Claim 31 corresponds to patent claim 30.

5. Claims 32-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-24 and 31-32 of U.S. Patent No. 6,330,719. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 32 is broader than US patent claims 22 and 31. Therefore, it would have been obvious to modify patent claims 22 and 31 with less features in order to obtain application claim 32.

Allowance of claim 32 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 22 and 31.

Claim 33 corresponds to patent claim 23.

Claim 34 corresponds to patent claims 24 and 32.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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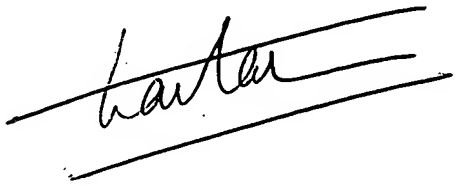
12/09/2004



HAI TRAN
PATENT EXAMINER